

NOTICE OF PUBLIC HEARING

**December 10, 2001
1:00 p.m.**

**Montana State Capitol Building
Room #172
1301 East Sixth Street
Helena, Montana**

On December 10, 2001, the United States Department of Education (the Department) will conduct a public hearing, pursuant to the requirements of 20 U.S.C. §1234f, to determine whether it should enter into a compliance agreement with the Montana Office of Public Instruction (OPI), under which Montana would continue to receive funds under Title I of the Elementary and Secondary Education Act (ESEA) while it works to come into compliance with the requirements of that statute. The following two sections of this Notice explain why the Department is considering entering into a compliance agreement with OPI and the specific purpose of the hearing.

BACKGROUND

Title I of the ESEA is the largest Federal education program providing financial assistance to school districts. Under Title I, Montana received over \$28.2 million for the 2001-2002 school year to provide services in high-poverty schools to students who are failing or at risk of failing to meet the State's challenging content standards.

To receive Title I funds, each state, including the District of Columbia and Puerto Rico, was required to develop or adopt, by the 1997-98 school year, challenging content standards in at least reading and mathematics that describe what the State expects all students to know and be able to do. Each State also was required to develop or adopt performance standards aligned to its content standards that describe three levels of proficiency to determine how well students are mastering the content standards. Finally, by the 2000-2001 school year, each State was required to develop or adopt a set of student assessments in at least reading/language arts and mathematics that would be used to determine the yearly performance of school districts and schools in enabling students to meet the State's standards. Those assessments must be aligned to the State's content and performance standards; be administered annually to students in at least one grade in each of three grade ranges: grades 3-5, grades 6-9 and grades 10-12; be valid and reliable for the purpose for which they are used and of high technical quality; involve multiple measures, including measures that assess higher-order thinking skills; provide for the inclusion of all students in the grades assessed, including students with disabilities and limited-English-proficient students; provide individual reports; and enable results to be disaggregated by major racial and ethnic groups and other categories.

OPI submitted, and the Department has approved, evidence of Montana's content standards. OPI also submitted to the Department evidence of its performance standards and final assessment system. Following peer review by a panel of assessment experts, the Department concluded that Montana's performance standards and final assessment system did not meet the Title I requirements. The Department based its conclusion on the fact that the assessment system in use for Title I accountability did not align fully with Montana's standards, did not contain multiple measures, did not allow for full participation of students with disabilities and limited-English-proficient students, and did not permit reporting of disaggregated student results as required by Title I.

OPI is now willing to modify its assessment system to meet the Title I requirements. However, because OPI was not able to complete its new assessment system by the 2000-2001 school year, as required by the Title I statute, OPI is not in compliance with the Title I requirements.

The Department has a choice of actions that it can take when a grantee is not in compliance with Title I, including withholding Title I funds or entering into a compliance agreement whereby the grantee agrees to come into full compliance by a future date. Pending the outcome of this hearing, the Department believes the facts of this matter and OPI's willingness to develop a new system warrant consideration of a compliance agreement rather than other, more punitive remedies.

Under a compliance agreement, OPI could have up to three years to bring its assessment system into full compliance with Title I. During this period, OPI would continue to receive Title I funds from the Department. However, OPI must demonstrate reasonable, consistent progress toward the goal of full compliance with Title I. Toward this end, the compliance agreement would contain a specific timetable and documentation requirements. Under 20 U.S.C. §1234f(d), if OPI fails to comply with the terms and conditions of the compliance agreement, the Department could determine that the agreement is no longer in effect, and take any steps authorized by law, including the withholding of funds. It is important to note that "the purpose of any compliance agreement shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements." 20 U.S.C. §1234f(a).

PURPOSE OF HEARING

Under 20 U.S.C. §1234f(b)(1), before entering into a compliance agreement, the Department is required to hold a hearing at which OPI, affected students and parents or their representatives, and other interested parties are invited to participate. OPI has the burden of persuading the Secretary that full compliance with the applicable Title I requirements is not feasible until a future date.

The purpose of the hearing is for the Department to gather information that will be used in determining whether a compliance agreement is appropriate. Therefore, the testimony of witnesses should be directed to the following questions:

- (1) Why OPI was unable to come into full compliance with the applicable Title I assessment requirements by the 2000-2001 school year.**
- (2) Whether OPI can come into full compliance within three years.**

Please note that the purpose of the hearing is to address these topics and not to present views on the substance of the assessment system OPI is developing. OPI will provide other opportunities to solicit public input as it develops its system.

Parties in attendance at the public hearing will have an opportunity to present testimony to Department officials on the issues above. Testimony may be in the form of written and/or oral statements. Oral statements must be limited to five (5) minutes or less, but may be supplemented by additional written materials presented at the conclusion of the witness' oral statement. Any written comments you submit may be subject to the disclosure requirements of the Freedom of Information Act (FOIA), 5 U.S.C. §552. Written testimony may be submitted through Tuesday, December 10, 2001, to:

Dr. Mary-Elizabeth Beach
Compensatory Education Programs
U.S. Department of Education
Office of Elementary and Secondary Education
400 Maryland Avenue S.W.
Washington, D.C. 20202-6132

If you plan to attend the hearing, please phone or e-mail Dr. Beach (202-260-0823 or mitzi.beach@ed.gov) or Claudette Anderson (202-260-0934 or Claudette.Anderson@ed.gov).

A sign language interpreter will be available at the hearing, and the hearing location is accessible to persons with disabilities. If you need further accommodations, please advise Dr. Beach by December 5, 2001. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 1-800-877-8339.